

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IRLANDA CISNEROS,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
VS.)	
)	3:09-CV-0772-G
COUNTRY FRESH, INC.,)	
)	ECF
Defendant.)	

MEMORANDUM OPINION AND ORDER

The defendant in this case, Country Fresh, Inc. (“Country Fresh”), filed a notice of removal to this court on April 28, 2009. A registered agent for Country Fresh received a copy of the initial pleadings setting forth the claim for relief on February 4, 2009. Notice of Removal to the United States District Court for the Northern District of Texas, Dallas Division (“Notice of Removal”) at 2. Defendants have only a certain amount of time to file a notice of removal, according to 28 U.S.C. § 1446(b), which states:

“The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which

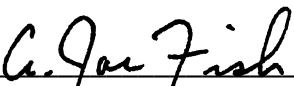
such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.”

Here, Country Fresh received a copy of the initial pleading on February 4, 2009. It was required to file its notice of removal within thirty days of that date. April 28, 2009 -- the date the notice of removal was filed -- was 83 days after February 4, 2009. The notice of removal is therefore untimely under 28 U.S.C. § 1446(b). The case is therefore **REMANDED** to the court from which it was removed, the **County Court at Law Number One, Dallas County, Texas**.

The clerk shall mail a certified copy of this order to the County Clerk of Dallas County, Texas. 28 U.S.C. § 1447(c).

SO ORDERED.

May 11, 2009.



A. JOE FISH
Senior United States District Judge